

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

DAMON LAMAR CHAMBLIS,

Plaintiff,

Case No. 1:20-cv-12984

v.

Honorable Thomas L. Ludington  
United States District Judge

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Honorable Anthony P. Patti  
United States Magistrate Judge

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**ORDER (1) ADOPTING REPORT AND RECOMMENDATION, (2) DENYING  
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, (3) GRANTING  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, (4) DISMISSING  
COMPLAINT WITH PREJUDICE, (5) OVERRULING OBJECTION AS UNTIMELY,  
AND (6) DENYING MOTION TO SUBSTITUTE AS MOOT**

On June 13, 2022, Plaintiff Damon Lamar Chamblis filed a complaint through counsel against Defendant Commissioner of Social Security under Title II and Title VII of the Social Security Act seeking judicial review of Defendant's final decision denying Plaintiff disability-insurance benefits and supplemental-security income. ECF No. 1. The case was referred to Magistrate Judge Anthony P. Patti. ECF No. 3. The parties filed cross-motions for summary judgment. ECF Nos. 20; 23.

On August 8, 2022, Judge Patti issued a Report and Recommendation recommending that this Court dismiss the Complaint, grant Defendant's Motion for Summary Judgment, and deny Plaintiff's Motion for Summary Judgment. ECF No. 28.

Two days after the R&R issued, Plaintiff's counsel filed a motion to substitute Plaintiff's son in this suit because Plaintiff has since passed away. ECF No. 29. As deeply saddening as Plaintiff's death is, there is no timely objection filed on the docket from Plaintiff or his son. *See*

ECF No. 30 (filed one day too late). Moreover, though Plaintiff purportedly passed away more than three months ago on May 19, 2022, the motion to substitute is not proper because Defendant has not been served with a notice of death as required under Federal Rule of Civil Procedure 25(a)(1). Accordingly, the objection will be overruled as untimely, and the motion to substitute will be denied as moot.

Although the R&R states the parties may object to and seek review of the R&R within 14 days of service, Plaintiff's objection was filed one day too late. He has therefore waived his rights to appeal Judge Patti's findings. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Accordingly, it is **ORDERED** that the Report and Recommendation, ECF No. 28, is **ADOPTED**.

Further, it is **ORDERED** that Plaintiff's Motion for Summary Judgment, ECF No. 20, is **DENIED**.

Further, it is **ORDERED** that Defendant's Motion for Summary Judgment, ECF No. 23, is **GRANTED**.

Further, it is **ORDERED** that Plaintiff's Complaint, ECF No. 1, is **DISMISSED WITH PREJUDICE**. A final judgment will follow closing the above-captioned case.

Further, it is **ORDERED** that Plaintiff's Objection, ECF No. 30, is **OVERULED** as untimely.

Further, it is **ORDERED** that Plaintiff's Motion to Substitute Party, ECF No. 29, is **DENIED AS MOOT**.

Dated: August 24, 2022

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge